

# **LB356: Valuation of Rent-Restricted Housing**

**Presented at the NIFA Housing  
Innovative Marketplace  
La Vista, Nebraska  
March 23, 2016**

- *This PowerPoint handout is used for training purposes in conjunction with the oral presentation given by the Rent-Restricted Housing Projects Valuation Committee.*
  - *It is not intended to be a stand-alone document.*
- *It is not an information guide, nor does it carry regulatory or statutory authority.*
  - *Nebraska tax statutes, regulations, information guides, and other resources are available at [revenue.nebraska.gov](http://revenue.nebraska.gov).*

# Today's Panelists

## (Also Committee Members)

Lori Johnson, MAI  
Great Plains Appraisal  
Appraiser from the private sector

John Wiechmann - President/CEO  
Midwest Housing Equity Group  
Representative from the low-income housing industry

Rob Ogden – Chief Deputy  
Lancaster County Assessor/ROD  
Representative of the county assessors

Pat Albro – Tax Specialist Senior  
Property Assessment Division  
Chairperson

# What Does LB356 Do?

- **Generally requires the use of the net operating income (NOI) valuation methodology to assess the value of affordable housing developments financed with federal Low Income Housing Tax Credits (LIHTC).**
- **Creates the Rent-Restricted Housing Projects Valuation Committee (Committee) within the Department of Revenue.**
  - **Committee's primary duty is to determine the appropriate capitalization rate(s) to be utilized by county assessors when applying the net operating income (NOI) valuation methodology.**
- **Establishes the band-of-investment technique as the formula to set capitalization rate(s) for affordable housing developments.**
- **Defines appeal procedures for the Tax Commissioner and a county board of equalization .**

# What else does LB 356 Do?

- Imposes responsibilities on owners of Rent-Restricted Properties.
  - Must report accurate data in a timely manner on forms mandated by Committee: income, expenses, capital stack, terms of any debt, Land Use Restriction Agreement (LURA) restrictions.
- Imposes responsibilities on county assessors.
  - Must use actual income and expense data. Must use capitalization rate(s) set by Committee. Right to seek appeal if NOI approach doesn't result in "actual value."
- Imposes responsibilities on the Committee.
  - Must gather all necessary and appropriate data. Must analyze data and determine inputs required to set capitalization rate(s). Process is transparent through open public meetings.

# Important Dates! Each Year!

- October 1: All LIHTC property owners must file a statement with both the Committee AND the county assessor on forms required by the Committee.
- November: Committee meets to examine data submitted by property owners. Also examine any available data relating to the sale of any LIHTC projects. Calculate cap rate(s) and prepare report for Property Tax Administrator.
- December 1: Property Tax Administrator publishes report and forwards to all county assessors.
- January 31 (following year): Deadline for county board of equalization or Tax Commissioner to file appeal with the Tax Equalization and Review Commission.

# How does it work? Basic Valuation Formula\*

Net Operating Income	\$-----
Add Back Property Taxes	<u>\$-----</u>
Adjusted NOI	\$-----
Cap Rate (loaded)	÷ <u>.-----</u>
Total Value	\$-----

- \*John has a political science degree – we know he's not real good at math – that's why Pat is the Chair and Rob and Lori do the heavy lifting.



# The Cap Rate Formula (into the weeds)

<u>Capital Stack</u>	<u>Ratio</u>	<u>Rate</u>	<u>Weighted Average</u>
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Debt	a	* Rm	= b
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Equity	x	* Re	= y
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Unloaded Capitalization Rate:			<hr/> z
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## Next, County Assessors “load” the cap rate

	NOMINAL TAX RATE	LOV		
2013	.02307173	.99	=	.0228410
2014	.02295244	.96	=	.0220343
2015	.02235840	.95	=	.0212405
	Recommend	ETR	of	.0210

Note: this is just as example, the effective tax rate (ETR) will vary by tax district.

# A Quick Step Back: 2015 Committee Work

- September – Adopted the income/expense form promulgated by NIFA
- November – multiple meetings to examine the information submitted by property owners
  - All information was loaded into a database to assist with analysis
  - Midwest Housing Equity Group also provided data based on its portfolio.
  - Committee concluded that:
    - Capital stack should be 30% debt and 70% equity
    - Mortgage constant – 6.6%
    - Equity Return Rate – 6.5%
- December 1 – published cap rate report

So, Using the Inputs Determined By  
the Committee, We Get the Following:

<u>Capital Stack</u>	<u>Ratio</u>	<u>Rate</u>	<u>Weighted Average</u>
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Debt	30%	* 6.6%	= .0198
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Equity	70%	* 6.5%	= <u>.0455</u>
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Capitalization Rate: .0653\*

\*This is the unloaded cap rate.

# Sample Valuation from 2015 Work

Net Operating Income	36,727
Property Taxes	<u>12,655</u>
Net Income Before Debt & Taxes	49,392
Overall Rate with Effective Tax Rate	÷ <u>.0863</u>
Total Value	572,329

# What's Next?

- Early 2016 – Committee has been meeting to revise form, a draft of which is in front of you
- Also meet with key stakeholders to discuss process, answer questions, seek input. **Goal is complete transparency and confidence in the process.**
- Hope to adopt form by early summer, giving property owners at least three months to complete forms and gather data.

# Key Takeaways

- **Remember October 1.** File the form with both the Department of Revenue AND the appropriate county assessor.
- Failure to file by October 1 means a county assessor can value LIHTC property using any methodology they believe results in actual value. Fill out the form completely and accurately.
- Submit audited financial statements with the form.

# Appeals Process: Income Approach Does Not Result in Actual Value

- **County assessor, based on facts and circumstances, will present the information to the county board of equalization**
- **If the county board of equalization concurs with county assessor they must petition the Tax Equalization and Review Commission to consider the county assessor's use of another professionally accepted mass appraisal technique**
  - **Petitions filed no later than January 31**
  - **Burden of proof is on the petitioning county board of equalization to show that failure to make a determination that a different methodology should be used would result in a value that is not equitable or in accordance with the law.**



- **Tax Commissioner, based on facts and circumstances, believes the applicable capitalization rate set by the Committee does not result in a valuation at actual value for such rent-restricted housing project.**
- **Tax Commissioner shall petition to the Tax Equalization and Review Commission to consider an adjustment to the capitalization rate.**
  - **Petition must be filed before January 31**
  - **Burden of proof is on the Tax Commissioner to show that failure to make an adjustment to the capitalization rate would result in a value that is not equal to the rent-restricted housing projects actual value.**

# QUESTIONS



**Contact Pat Albro, Chair of the Committee at...**

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